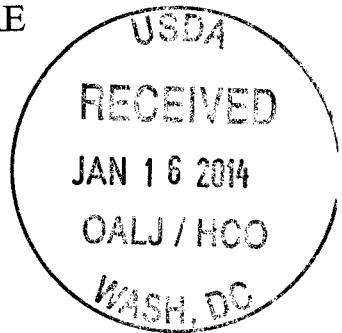


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0334

In re: Nancy Schulz,  
Respondent



**Default Decision and Order**

**Preliminary Statement**

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the Respondent violated the Act.

Copies of the Complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served on the Respondent by the Hearing Clerk by certified mail on September 3, 2013. Respondent was informed in the letter of service that an Answer should be filed pursuant to the Rules of Practice, and that failure to answer any allegation in the complaint would constitute an admission of that allegation.

As Respondent failed to file an answer within the time prescribed in the Rules of Practice, the material facts alleged in the complaint are hereby deemed admitted and the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

**Findings of Fact**

1. Respondent Nancy Schulz is an individual with a mailing address in McCune, Kansas.
2. Respondent, at all times material hereto, was licensed and operating as a breeder as defined in the Act and the regulations.
3. On August 6, 2009, an APHIS inspection found the following violations of the

Regulations and Standards:

A. Respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine to provide daily observation of all animals to assess their health and well-being.

B. Primary enclosures for dogs were not designed and constructed of suitable materials so that they were structurally sound.

C. Primary enclosures for dogs were not structurally sound and maintained in good repair so that there were no sharp points or edges that could injure the dogs.

4. On a follow-up inspection conducted on September 1, 2009, the APHIS inspection found the following violations of the Regulations and Standards:

A. Respondent still failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine to provide daily observation of all animals to assess their health and well-being.

B. Provisions were not made for the regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks.

C. The building surfaces in contact with the animals in outdoor housing facilities for dogs were not impervious to moisture.

D. Primary enclosures for dogs were not structurally sound and maintained in good repair so that there were no sharp points or edges that could injure the dogs.

5. On January 6, 2010, APHIS inspection found the following violations of the Regulations and Standards:

A. Outdoor facilities for dogs did not include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, and lie in a normal manner, and to turn about freely.

B. Primary enclosures for dogs were not structurally sound and maintained in good repair so that there were no sharp points or edges that could injure the dogs.

6. On July 22, 2010, APHIS inspection found that Primary enclosures for dogs were not designed and constructed of suitable materials so that they were structurally sound and kept in good repair.

#### **Conclusions of Law**

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent willfully violated section 2.40(b)(3), 2.100(a) of the Regulations, 9 C.F.R. §2.40(b)(3) and 2.100(a), and the following Standards: 9 C.F.R. §3.1(f), 3.4(b), 3.4(c), 3.6(a)(1), and 3.6(a)(2)(i).

#### **Order**

1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.
2. Respondent is assessed a civil penalty of \$9,286.00, which shall be paid by a certified check or money order made payable to the Treasurer of United States.
3. Respondent's license is revoked and respondent is permanently disqualified from becoming licensed under the Act and regulations.
4. The provisions of this order shall become effective on the first day after this decision becomes final. This Decision and Order shall becomes final without further proceedings 35 days after service unless appealed to the Judicial Officer as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this Decision and Order shall be served upon the parties.

January 16, 2014



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**Peter M. Davenport**  
Chief Administrative Law Judge